

BEFORE THE

**Illinois Commerce Commission**

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**DOCKET NO. 00-0039**

IN THE MATTER OF:

**ACN COMMUNICATION SERVICES, INC.**

CHIEF CLERK'S OFFICE

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ILLINOIS  
COMMERCE COMMISSION

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PLACE: **Springfield, Illinois**

DATE: February **17**, 2000

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BEFORE THE  
ILLINOIS COMMERCE COMMISSION

ACN COMMUNICATION SERVICES, INC.

DOCKET NO.

00-0039

Application for a Certificate of  
Interexchange Authority to operate as  
a Reseller of Telecommunications  
Services in the State of Illinois.

Springfield, Illinois  
February 17, 2000

Met, pursuant to notice, at .:30 P.M.

BEFORE:

MR. JOHN ALBERS, Examiner

APPEARANCES:

MS. KRISTIE STOKES HASSETT  
Reboul MacMurray  
1111 19th Street, N.W., Suite 406  
Washington, D.C. 20036

(Appearing on behalf of Applicant via  
teleconference.)

MS. KIM McDONALD  
32991 Hamilton Court  
Farmington' Hills, Michigan 48334

(Appearing on behalf of Applicant via  
teleconference.)

SULLIVAN REPORTING COMPANY, by  
Carla J. Boehl, Reporter  
Ln. #084-002710

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I N D E X

WITNESSES

DIRECT CROSS REDIRECT RECROSS

KIM McMURRAY

By Examiner Albers

6

I N D E X

EXHIBITS

MARKED

ADMITTED

ACN Exhibit 1

14

5

PROCEEDINGS

EXAMINER ALBERS: By the authority vested in me by the Illinois Commerce Commission I now call Docket Number 00-0039. ACN Communication Services, Inc., brings this matter before the Commission seeking authority to provide resold and facilities-based interexchange telecommunication services.

May I have the appearances for the record, please?

MS. HASSETT: Kristie Hassett, counsel for ACN Communication Services, Inc.

MS. McDONALD: Kim McDonald, chief operating officer for ACN Communications Services, Inc.

EXAMINER ALBERS: Thank you. Ms. Hassett, could we have your address, please?

MS. HASSETT: The law firm is Reboul MacMurray, M-A-C-M-U-R-R-A-Y, 1111 19th Street, Northwest, Suite 406, Washington, D.C. 20036.

EXAMINER ALBERS: Thank you.

MS. McDONALD: ACN's address is 32991 Hamilton Court, that's in Farmington Hills, Michigan.

1 And the zipcode is 48334.

2 EXAMINER ALBERS: All right. Thank you.

3 Let the record reflect there are no others wishing to  
4 enter an appearance.

5 Do you have any preliminary matters you  
6 would like to raise this morning, Ms. Hassett?

7 MS. HASSETT: No, I have nothing to raise,  
8 other than to move into evidence Exhibit 1 which was  
9 an audited financial statement through the end of  
10 October 1999 for ACN Communication Services' parent  
11 which is American Communications Network, Inc.

12 EXAMINER ALBERS: Why don't we -- we can  
13 take that up when we get Ms. McDonald sworn in  
14 because I assume she will be the sponsoring witness.  
15 And in that case the purpose of today's hearing is to  
16 hear the merits of the Applicant's request for  
17 certificates of service authority. If you want to  
18 call your witness, I will go ahead and swear her in.

19 MS. HASSETT: Our witness will be Kim  
20 McDonald, chief operating officer of ACN  
21 Communication Services, Inc.

22 EXAMINER ALBERS: Ms. McDonald, would you

1 please stand and raise your right hand?

2 THE WITNESS: Yes.

3 (Whereupon the Witness was duly  
4 sworn by Examiner Albers.)

5 EXAMINER ALBERS: I suppose at this time,  
6 Ms. McDonald, are you the sponsoring witness for the  
7 exhibit that Ms. Hassett referenced a couple seconds  
8 ago?

9 THE WITNESS: Yes, I am.

10 EXAMINER ALBERS: And we can mark that as  
11 Exhibit 1. I will provide copies to the court  
12 reporter following the hearing. And you would like  
13 proprietary treatment for this exhibit, is that  
14 correct?

15 THE WITNESS: That is correct.

16 EXAMINER ALBERS: Then this exhibit is  
17 admitted into the record.

18 (Whereupon ACN Exhibit  
19 1 was admitted into evidence.)

20 EXAMINER ALBERS: I have a few questions for  
21 you then, Ms. McDonald.

22

1 K I M M c D O N A L D

2 called as a Witness on behalf of Applicant, having  
3 been first duly sworn, was examined and testified as  
4 follows:

5 EXAMINATION

6 BY EXAMINER ALBERS:

7 Q. Although ACN seeks statewide authority,  
8 does it intend to focus on any particular part of  
9 Illinois?

10 A. No.

11 Q. I have also noted that ACN requested  
12 waivers of Part 710 and 735. Can you please explain  
13 why ACN has requested these waivers?

14 A. Yes. Number one, I guess ACN wishes to  
15 keep its books and records at its corporate office in  
16 Michigan. It's really more of an economical issue  
17 for the Company more than anything else. We will  
18 make these books and records available to the  
19 Commission upon request and this is just a -- we  
20 didn't want to have to open an office in Illinois.

21 Q. I guess that would be Code Part 250.

22 A. Now, the part of 710 which we have asked

1 for a waiver of -- this is the one that establishes a  
2 Uniform System of Accounts, correct?

3 Q. Yes.

4 A. And in this case ACN is a competitive  
5 interexchange carrier with really no market power.  
6 We don't believe that our services are subject to  
7 rate-based regulation. Therefore, it doesn't really  
8 fit well with the requirements of Part 710.

9 Q. Let me ask you this then. Are you using  
10 generally accepted accounting principles?

11 A. Yes.

12 Q. And if required to follow Part 710,  
13 would you find yourself keeping two separate sets of  
14 books, one for everyone else and one for Illinois; is  
15 that part of your concern?

16 A. Yes. We would keep one set of books.

17 Q. You would like to?

18 A. Yes.

19 Q. And with regard to Part 735, is that one  
20 of the reasons you indicated earlier apply to 735 as  
21 well?

22 A. That is correct. We are only offering



1 these for long distance purposes so we wouldn't be  
2 collecting deposits or issuing telephone directories  
3 and would not be providing local service. So we  
4 wouldn't be subject to this either. It really  
5 wouldn't apply to us.

6 Q. That leads me to one of my other  
7 questions. Do you have any intent to offer  
8 facilities-based service in the future?

9 A. At this time, no.

10 Q. But you are seeking authority to do so  
11 anyway, right?

12 A. Kristie, I don't --

13 MS. HASSETT: I think it's part of the  
14 general application that that authorization was  
15 requested. The Company does, I understand, intend  
16 simply to provide resold services.

17 EXAMINER ALBERS: Okay. Let me just clarify  
18 something then. On the application -- you used one  
19 of our form applications and under the authority  
20 requested question, ACN has checked Section 13-403  
21 and Section 13-404. Section 13-403 concerns  
22 authority to operate facilities-based interexchange

1 services, and Section 13-404 concerns resold  
2 interexchange and local. The local part wouldn't be  
3 an issue here. The only reason I ask is that it  
4 sounds like you only want to offer resold  
5 interexchange. Do you still want authority under  
6 Section 13-403 which would be facilities-based  
7 interexchange.

8 MS. HASSETT: May I ask a question? Would  
9 there be any slow down in the application process or  
10 any additional requirements that we have not already  
11 met to obtain facilities-based authority? My  
12 understanding is that we could simply get both at  
13 this time, even though we intended simply to provide  
14 resold services.

15 EXAMINER ALBERS: No, that's fine. I just  
16 wanted to clarify what in fact you were asking for.  
17 There is no problem asking for both at this time but  
18 only offering resold in the future. So if you do  
19 intend to ask for both, that's fine.

20 MS. McDONALD: Yes, we would like to ask for  
21 both.

22 EXAMINER ALBERS: I'm just jotting some

1 notes down here.

2 Q. With regard to your request for a  
3 waiver of Part 250, would ACN want to keep its books  
4 and records at 32991 Hamilton Court in Farmington,  
5 Michigan.

6 A. Yes.

7 Q. Would ACN reimburse the Commission for  
8 any reasonable expenses associated with investigating  
9 or auditing ACN's books and records?

10 A. Yes.

11 Q. Has ACN received authorization to  
12 provide telecommunications service from any other  
13 state?

14 A. We are currently -- we are not yet  
15 providing service in any jurisdiction. We are in the  
16 process of applying for authorization. So  
17 registrations and applications have been filed in 41  
18 states so far as well as Section 214 applications.  
19 But most of the applications are still pending.

20 Q. And based on your earlier comments it  
21 doesn't sound like you have any employees based in  
22 Illinois?

1 A. That is correct.

2 Q. How many employees does ACN have?

3 A. ACN, the parent company has  
4 approximately 500 worldwide. ACN Communications  
5 Services is now in the process of hiring individuals.  
6 So at this point it doesn't have a lot of employees.

7 Q. Can you just tell me roughly how many  
8 you have now?

9 A. ACN Communications Services probably has  
10 about ten at the moment.

11 Q. When do you intend to actually begin  
12 offering interexchange service?

13 A. May 1.

14 Q. And I also just wanted to clarify, 'I  
15 guess American Communications Network, Inc., is the  
16 parent of the ACN Communication Service, Inc.?

17 A. That is right.

18 Q. Will ACN let customers know, customers  
19 who have complaints, will ACN let those customers  
20 know that they can seek redress at the Commission if  
21 ACN cannot resolve the complaint to the customer's  
22 satisfaction?

1 A. Yes.

2 Q. And I also have two different financial  
3 statements, one for 1998 and one for the nine months  
4 ending October 31, 1999. Both of those you sought  
5 proprietary treatment for. Does ACN have any  
6 objection to the use of the number indicated for  
7 total liabilities and owner's equity in the  
8 Commission's order?

9 A. No, we have no objection.

10 Q. Okay. And also with regard to the  
11 proprietary treatment of those, does ACN have a  
12 preference for how long those documents remain  
13 proprietary?

14 A. Prefer it to be for a period of five  
15 years.

16 Q. I think this is in your application but  
17 forgive me if it is and I will ask it anyway. How  
18 long has ACN been in existence?

19 A. ACN, the corporate, the parent company  
20 has been in existence since 1990.

21 Q. The parent company?

22 A. Yes.

1 Q. And what about ACN the subsidiary?

2 A. ACN Communication Services obtained  
3 authorization in Illinois on November 17, 1999. Is  
4 that the date you are looking for?

5 Q. I think so.

6 A. The date of the incorporation, I don't  
7 know the actual date. Kristie, can you help me out  
8 with the actual date or -- April 30, 1999.

9 MS. HASSETT: April 30, 1999. It's the  
10 Attachment B on the Articles of Incorporation which  
11 is attached to the application.

12 EXAMINER ALBERS: I thought it was but I  
13 just couldn't find it.

14 MS. HASSETT: Part of the exhibit.

15 EXAMINER ALBERS:

16 Q. Is American Communications Network,  
17 Inc., a holding company then?

18 A. Yes.

19 Q. And do they own other operating  
20 companies similar to what ACN wants to be?

21 A. Yes, they do.

22 Q. Do they have any subsidiaries in

1 Illinois, operating in Illinois at this time?

2 A. No.

3 EXAMINER ALBERS: I think that's all the  
4 questions I had for you, Ms. McDonald. Thank you.  
5 Do you have any follow-up questions or redirect for  
6 your witness, Ms. Hassett?

7 MS. HASSETT: No, I don't.

8 EXAMINER ALBERS: And one final procedural  
9 question, if you will. You attached ACN's tariff to  
10 the application. Now, assuming the Commission grants  
11 those certificates, you know that you have to file  
12 the tariffs with the Commission again, right?

13 MS. HASSETT: We will do that.

14 EXAMINER ALBERS: And do you have anything  
15 else you would like to add?

16 MS. HASSETT: Nothing to add.

17 EXAMINER ALBERS: Okay. If there is nothing  
18 further, then I will mark the record heard and taken.

19 (Whereupon ACN Exhibit 1 was  
20 marked for purposes of  
21 identification as of this  
22 date.)

HEARD AND TAKEN

1 STATE OF ILLINOIS )  
 ) SS  
2 COUNTY OF SANGAMON )  
CASE NO.: 00-0039  
3 TITLE: ACN COMMUNICATION SERVICES, INC.

4 CERTIFICATE OF REPORTER

5 I, Carla J. Boehl, do hereby certify that I  
6 am a court reporter contracted by Sullivan Reporting  
7 Company of Chicago, Illinois; that I reported in  
8 shorthand the evidence taken and proceedings had on  
9 the hearing on the above-entitled case on the 17th  
10 day of February, 2000; that the foregoing 14 pages  
11 are a true and correct transcript of my shorthand  
12 notes so taken as aforesaid and contain all of the  
13 proceedings directed by the Commission or other  
14 persons authorized by it to conduct the said hearing  
15 to be so stenographically reported.

16 Dated at Springfield, Illinois, on this 22nd  
17 day of February, A.D., 2000.

18  
19  \_\_\_\_\_

20 Certified Shorthand Reporter  
21  
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